



# The Ombudsman

## for Tennessee's Children in State Custody & Kinship Care

### Ombudsman Program Annual Report

From January 2001 to December 2004, the Tennessee Commission on Children and Youth's (TCCY) ombudsman office received a total of 993 referrals. This number represented 48% (476) "active" and 52% (517) "information-only" cases. For the 2004 annual report, the latter type of case will be labeled as "Info Cases."

In CY 2004, a total of 168 referrals were made to the TCCY's Juvenile Justice Unit responsible for the agency's Ombudsman Program. This figure constituted 95 (57%) Active Cases and 73 (43%) Info Cases. The Commission's ombudsmen respond to all referrals received through the electronic, voice, and regular mail systems within 1-2 business days.

Over the past few years, the relationship and cooperation between the DCS regional offices and TCCY's Ombudsman Program continue to improve. Nine out of twelve regions have arranged an ombudsman point person whose function is to provide assistance when a TCCY ombudsman contacts the department's case manager and/or team leader. DCS has invited the ombudsmen to participate in Child & Family Team Meetings.



Calendar  
Year  
2004

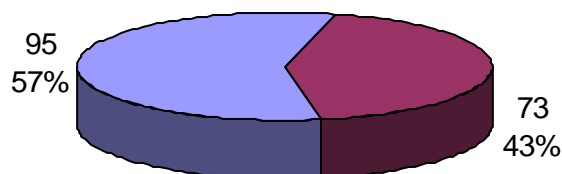
Tennessee Commission  
on Children and Youth

January 2005 Edition

### Table of Contents

☺ Open Cases vs. Closed Cases	2
☺ Outcomes and Classifications	3
☺ Child Status and Adjudications	4
☺ Genders and Ethnicities	5
☺ Geographic Distributions	6
☺ Placements, Relationships, and Referral Sources	7
☺ Illustrative Cases	8
☺ Before Calling an Ombudsman...	11
☺ TCCY Ombudsman & DCS Ombudsman	11
☺ USOA 26th Annual Conference	12
☺ Letters and Comments	14

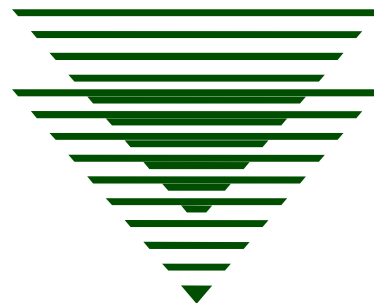
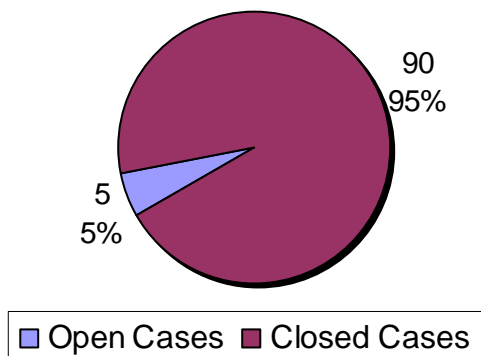
**Ombudsman Referrals in CY 2004**  
**N=168**



■ Active Cases ■ Info Cases

# Open Cases vs. Closed Cases

**Active Cases in CY 2004**  
N=95



## Active Cases

A referral becomes an "active" case if subject child is in state custody (foster care system) or in kinship care/relative caregiver program. Last year, 90 cases or 95% were closed while five cases or 5% remained open.

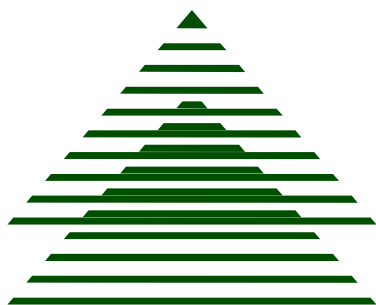
Unless mentioned in the original referral, every additional complaint is regarded as a new case. Typically, cases remain active from one to three months. The length of time a case is open depends on the degree of the problem and the type of supportive services needed. A case is re-activated as new problems arise.

## Information-only Cases

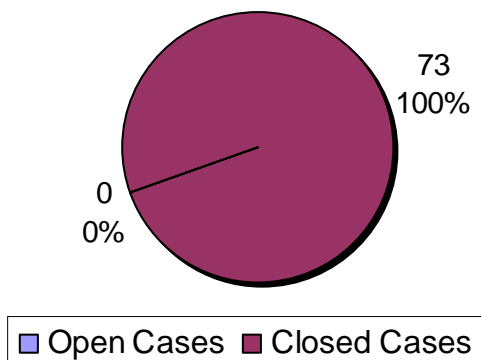
In 2004, 73 or 100% "information-only" referrals were closed. In almost all situations, the children involved in these cases are not in state custody. Usually, information-only referrals require a very limited amount of assistance.

Referents request specific information in order to get the answers they need. If possible, the function, name of the person or agency, and telephone number are provided.

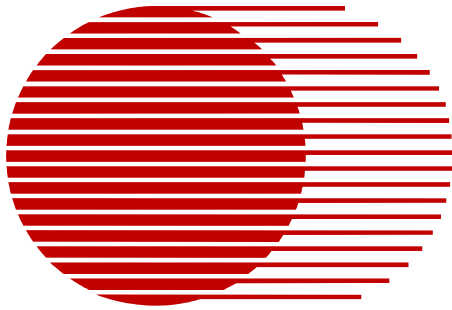
All referrals are entertained, that is, no referrals are turned down. Direct or indirect assistance is always offered.



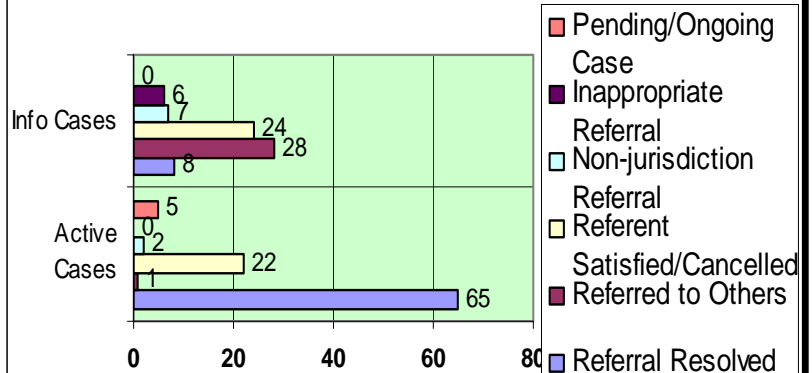
**Info Cases in CY 2004**  
N=73



# Outcomes and Classifications



**Case Outcomes in CY 2004**



## Classifications

For active cases, Placement (29), Reunification (16), Behavioral Health (9), and Caregiver Support (8) issues made up 65% (62) of the referral classifications.

For info cases, CPS/TPR (12) and Other (36) issues represent 66% (48) or two-thirds of the referrals in the above-named category.

Referrals classified under "Other" issues are concerns that do not belong to the 10 sub-categories. Examples of these cases include child support, DCS policies and procedures, custody, general information-related queries, etc.

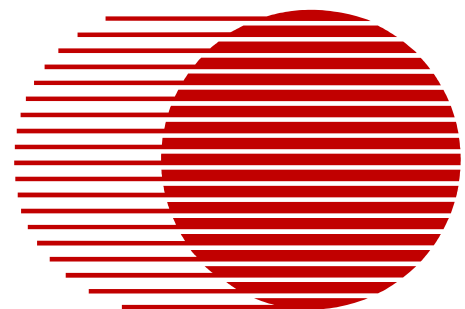
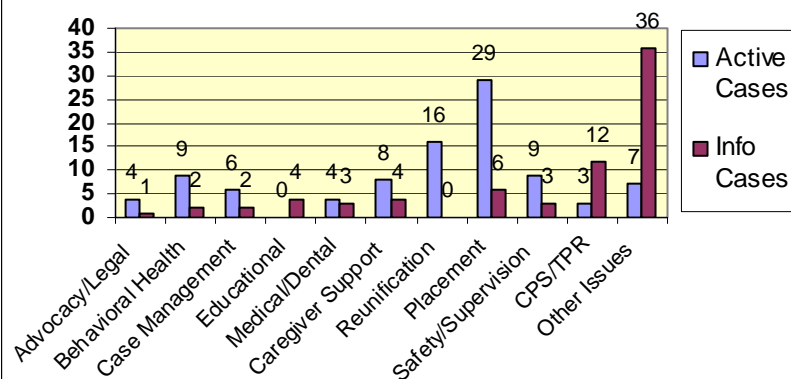
## Case Outcomes

Sixty-eight percent or 65 Active Cases were resolved and 23% or 22 cases were closed due to referents' inactivity (cancelled referral) after the initial contact or were satisfied even though their referrals remained a concern.

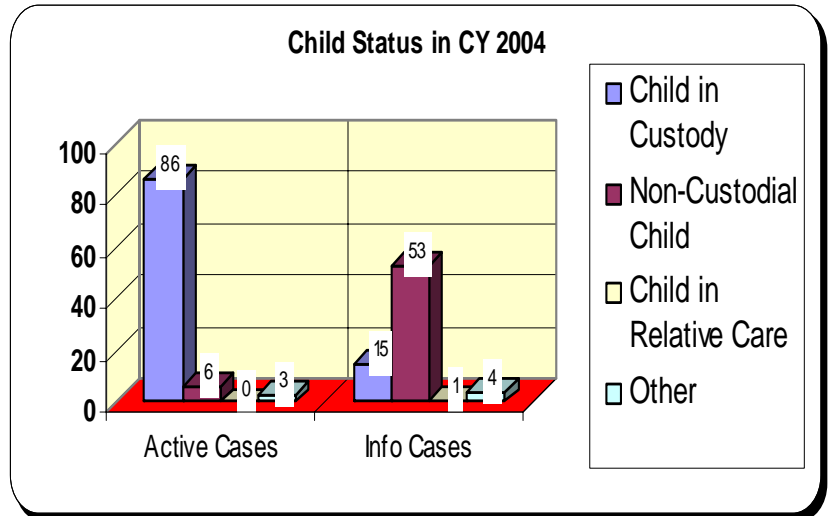
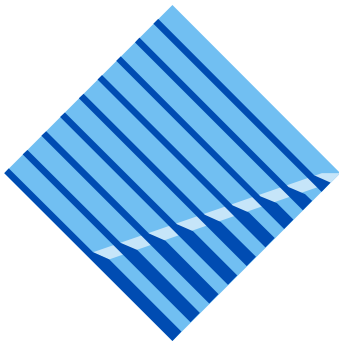
Info Cases were dispositioned by diverting or referring 28 cases or 38% to others. Another 24 cases or 33% had referent satisfaction or cancellation outcome.

From these data, the overall outcome for Active and Info Cases (N=168) at 82% (138 cases) had produced good results.

**Referral Classifications in CY 2004**



# Child Status and Adjudications



## Adjudications

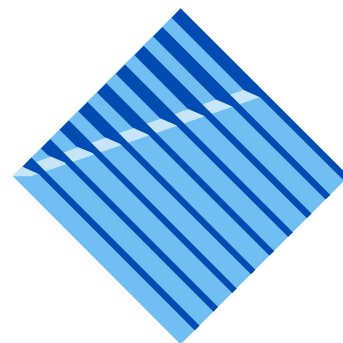
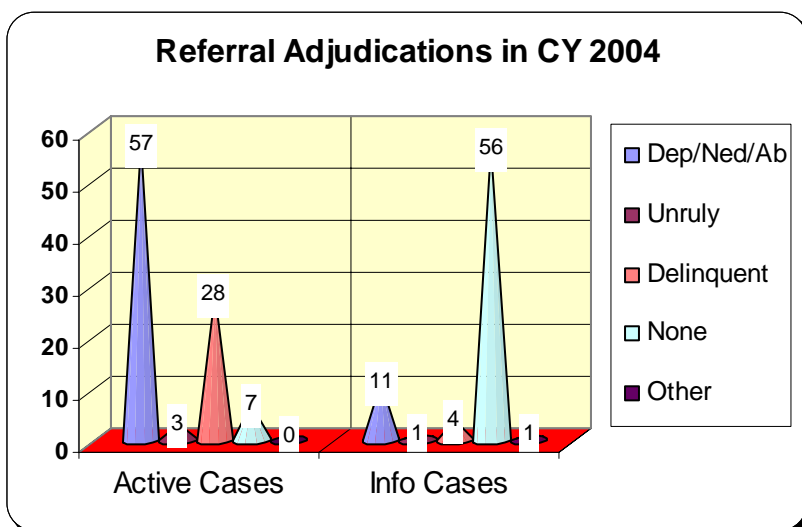
Sixty percent or 57 Active Cases were adjudicated dependent/neglected/abused. Statistics showed 28 cases or 30% had unruly adjudications.

Seventy-seven percent or 56 Info Cases had no adjudication, which should be the case. Eleven cases, or 15%, had D/N/Ab adjudications but were not opened or regarded as Active Cases due to Ombudsman Program parameters or jurisdiction. Seven cases with no adjudication were categorized as Active Cases. These referrals had post-custody or relative placement issues.

## Child Status

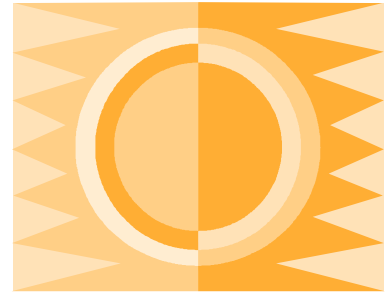
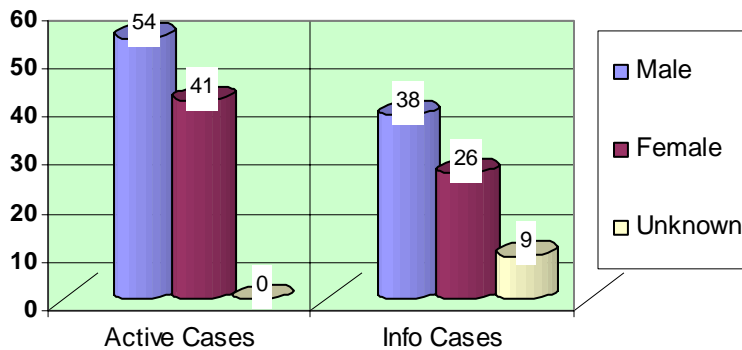
For Active Cases, 91% or 86 children were in state custody. For Info Cases, there were 53 cases or 73% that did not involve children in the foster care system. The distribution of these figures was expected.

Referrals pertaining to children and youth under the jurisdiction of DCS have always been the focus of the agency's Ombudsman Program. The data for 2004 confirmed that individuals who made attempts to resolve their concerns or problems had correctly contacted the appropriate channel or office.



## Genders and Ethnicities

**Gender of Cases in CY 2004**



### Genders

The distribution of cases pertaining to Gender for both Active Cases (57% male and 43% female) and Info Cases (52% male and 35% female) is in proportion with one another, that is, the difference is not significant.

Since information-only referrals normally require a limited amount of information and involvement, the gender of children is not always determined or solicited. This situation applied to nine minors belonging to Info Cases. For Active Cases, the gender of all children was routinely identified.

### Ethnic Groups

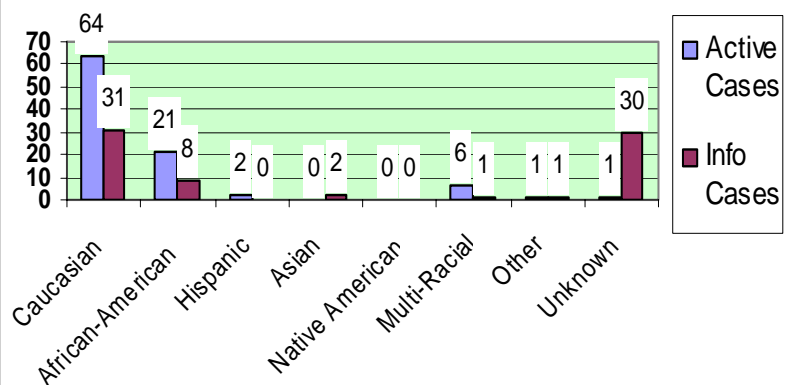
The ethnic backgrounds of 30 children belonging to Info Cases was not identified primarily due to the reason provided in the Gender section.

While there were 64 or 67% Caucasians in the Active Cases, children in the Info Cases had 31 or 43% Caucasian boys and girls.

The next dominant ethnic origin was to African-Americans (Active Cases: 21 or 22% and Info Cases: 8 or 11%). Eight children in Active Cases and three children in Info Cases had Hispanic, Asian, and Multi-racial ethnicities.



**Race of Cases in CY 2004**

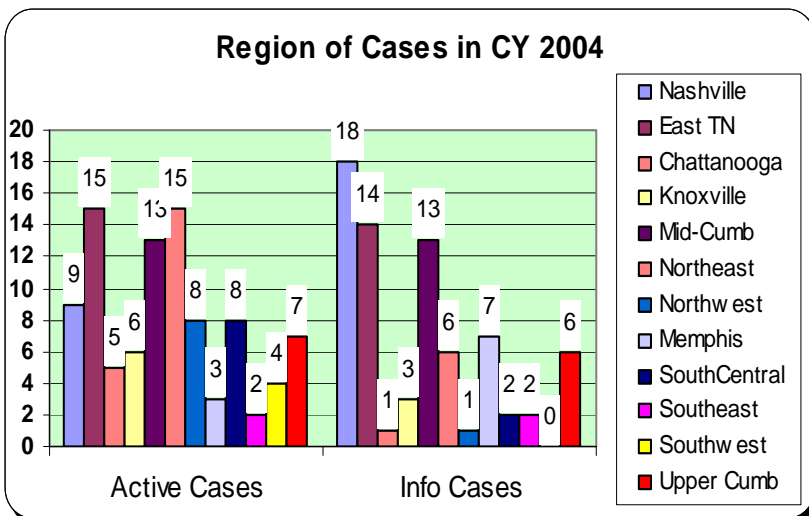


## Geographic Distribution

The geographical origin of anonymous or unknown referrals was defaulted to Davidson County or Nashville.

Referrals fielded in Davidson County, East Tennessee, and Mid-Cumberland areas made up 62% of the Info Cases. For Active Cases, East Tennessee, Mid-Cumberland, and Northeast Tennessee regions constituted 45% of the referrals.

The total number (52% or 88 cases) received in four areas (Davidson, Mid-Cumberland, East TN, and Northeast TN) corresponds to more than half of all the referrals for 2004. Four out of twelve regions appeared more active than others when it comes to constituents seeking help from TCCY's Ombudsman Program.



*"...Human rights are not protected simply by constitutions or legislation, by guarantees or speeches, by proclamations, or declarations but primarily by the availability of remedies. The ombudsman system is one of the remedies which seeks to preserve human rights."*

American Bar Association's Administrative Law Section Appendix A-2

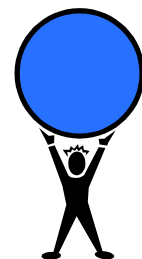


## Child's Placement

## Referent Relationship

## Referral Source

	Active Cases	Info Cases		Active Cases	Info Cases		Active Cases	Info Cases
Biological Parent's Home	7	41	Mother	28	20	Previous Referral	21	4
Adoptive Parent's Home	1	5	Father	3	14	Internet/Website	16	16
Kinship/Relative Caregiver	8	12	Grandparent	11	11	Phone Directory	1	2
Foster Home	30	5	Relative	10	10	TCCY Staff	3	4
Emergency Shelter	0	0	Friend/Neighbor	3	4	DCS Staff	8	1
D and E Center	0	0	Child/Youth	9	1	Juvenile Court	4	1
Residential Levels I & II	18	5	Foster Parent	8	3	Legislator's Office	2	2
Residential Levels III & IV	12	1	DCS	1	0	Government Agency	4	0
Youth Development Center	4	0	Service Provider	13	0	Non-profit	9	4
Juvenile Detention Center	4	0	Legislator	3	1	Advocacy Agency	9	1
AWOL	1	0	Non-profit	1	2	Legal Office	3	3
Therapeutic Foster Home	6	0	Out-of State	0	1	Brochure/Leaflet	1	2
Adult Jail	1	0	Anonymous	1	0	Relative/Friend	2	0
Other	3	1	Government Agency	3	5	Other	0	5
Unknown	0	3	Other	1	1	Unknown	12	28
	<b>95</b>	<b>73</b>		<b>95</b>	<b>73</b>		<b>95</b>	<b>73</b>



## Illustrative Case #1

The ombudsman office received a referral from a mental health social worker. The referral was in regard to a 16-year-old male who was brought into DCS custody due to dependent/neglect issues and a status offense. The referent reported that the juvenile had been in custody in another state for sexual offenses. The referent stated that the child was released from custody after two years of confinement in a juvenile detention facility. The child and his father then moved to a rural county in the Mid-Cumberland region of Tennessee where they lived with the father's girlfriend. After a while, the father apparently left the child in the care of his girlfriend and left the state. The relationship between the child and his caregiver deteriorated and he was eventually told to leave. The police department found the child walking down a street. He was placed in DCS custody due to the fact that he had no caregiver. He was also charged with possession of tobacco at this time.

The referent reported that after the child came into custody he was placed in a wilderness program. According to the referent, the justification for the wilderness program placement was to dispose and address delinquent behaviors that occurred in another state. The referent reported that after being placed at the wilderness program the juvenile became sui-

cidal and was admitted to a state mental health facility.

After an initial investigation, two areas of concern were identified. The first concern was that the child's previous delinquent acts did appear to be a major factor in the wilderness program placement decision. In the case notes, there was dictation where the case manager told the juvenile that the reason he was going to the wilderness program was his past delinquent adjudications. The second area of concern was



that the placement recommendation was made without needed assessments. The juvenile was placed at a primary treatment center so that assessments, including a psychological evaluation, could be completed. The psychological evaluation was never finished,

and the juvenile left for his placement at the wilderness program.

These concerns were handled by communicating with the child's GAL, DCS case manager, mental health social worker and the DCS team leader. The juvenile received the needed psychological evaluation and his mental condition improved to where he could be released from the hospital. Placement in a more appropriate program was secured prior to discharge from the hospital. At the time of case closure, the juvenile was stable and the issues of concern were resolved.



## Illustrative Case #2

The ombudsman office received a referral from a child advocacy agency. The referral was in regard to a 19-year-old male who was brought into custody due to dependent/neglect issues. Once in DCS care, the juvenile was adjudicated as a delinquent for behaviors that occurred in placement. The referent reported that the client's grandmother was in the hospital. The referent stated that she was having difficulty arranging visits with the grandmother. The referent also stated that the young man was reporting that he had been sexually abused while in a DCS residential facility.

The two issues in the initial referral were resolved quickly. The referent and the case manager discussed the client visiting his grandmother and agreed that visitation would not be appropriate. The sexual abuse allegations were investigated by DCS and a child advocacy agency. The allegations were determined to be unfounded by both agencies.

During the initial investigation, several areas of concern not mentioned in the initial referral were identified. The client has a long history of disrupting placements and running away. A juvenile court referee told DCS that he would hold the department accountable if the client ran again. The client was then placed in a secure emergency shelter. While at the shelter, the

client was charged with an adult offense. What actually happened is not clear. Some reports state that the client showed the therapist his tongue and made an obscene statement. Other reports stated that the client touched his therapist's leg in an inappropriate way. Either way, he was found guilty of sexual assault. As punishment for the crime, he served eight months of secure confinement in an adult jail. Instead of advocating for the client and at-

tempting to provide services, DCS focused its efforts on unsuccessfully discharging the juvenile. The juvenile court referee would not allow the client to be released from DCS custody.

During his eighth month stay in an adult jail, the client did not receive services. He was released from the adult jail in April 2004. Since he was still in DCS custody, the department picked the client up at jail. He was then taken to a juvenile detention center where he stayed until his 19th birthday. While at the detention center, the client again did not receive any services. There was also no evidence of discharge planning.

These concerns were handled by communicating with the client, DCS case manager, DCS team leader, DCS regional administrator, DCS legal staff, DCS placement unit, client's aunt,

*(Continued on page 10)*



## Illustrative Case #2

(Continued from page 9)

Mental Health Cooperative case manager, Vocational Rehabilitation case manager and two child advocacy agencies. A meeting was held a week and a half before the client turned 19 to address discharge planning. At this meeting several issues were discussed. Efforts to remove the client from the detention center were unsuccessful. The department stated that because of the client's past criminal behaviors they could not find a placement that would accept him. The client's transition from foster care was also discussed. The client's aunt refused to allow him to return to her home. She stated that she could not handle him.

She also stated that she knew that if he returned to that neighborhood he will end up in jail. An emergency Medicaid waiver was also discussed. The client would need a current psychological evaluation to see if he qualified. He would also have to be homeless to be eligible for the Medicaid waiver. It was also decided that a referral would be made for vocational rehabilita-

tion services.

Because the client had no other options, he elected post custody. On his 19th birthday, a foster home was found, and the client was finally removed from detention.

The foster home placement has been a positive situation for the client. The client has had a few behavior problems in the foster home. However, the foster family is supportive of the client, and the placement does not appear to be in danger of disrupting. The foster family and DCS are assisting the client in applying for mental health services and SSI. He also recently received a psychological evaluation. Due to the client being in

a supportive foster home, and not being homeless, the Medicaid waiver does not appear to be an option. Vocational rehabilitation also does not appear to be an option at this time. A meeting is going to take place in the next few days to address the client's long term options. The Ombudsman Program case will remain active until a long term decision is made.



*"As part of the original federal consent decree that spurred DJJ's formation, the department was required to install an ombudsman to hear youth complaints, and also was assigned independent monitors to track the department's progress and prevent backsliding."*

From Kelley M. Blassingame's Model for Reform: Kentucky Department of Juvenile Justice, Children's Voice, January 2002, Vol. 11, No. 1 (a CWLA publication)

## Things to Consider before Contacting an Ombudsman...

Try to resolve the problem by contacting the Department of Children's Services (DCS) case manager or the case manager's supervisor. In most cases, a department representative can explain a specific policy or assist in correcting the problem. When you contact DCS, remember to:

- 1) Have all of the relevant information. It helps to write down the problem and all of your questions ahead of time.
- 2) Talk to the right people. State the action you are requesting. If you cannot resolve the problem with the caseworker, speak to the caseworker's supervisor or Team Leader, Team Coordinator, and then the Regional Administrator (in that order). Ask questions, and keep making inquiries until you understand what happened and why.
- 3) Keep careful notes and records of all your contacts, including dates, times, telephone numbers and the names and title of the people with whom you speak.
- 4) Carefully read all information that is sent to you. There are rules, court hearings, and deadlines, that must be observed or followed.
- 5) Be pleasant and polite. Being hostile, rude, or angry will not necessarily resolve your issue.

If you have followed these suggestions and still cannot bring solution to your concerns, contact the Tennessee Commission on Children & Youth (TCCY) Ombudsman Program for assistance.

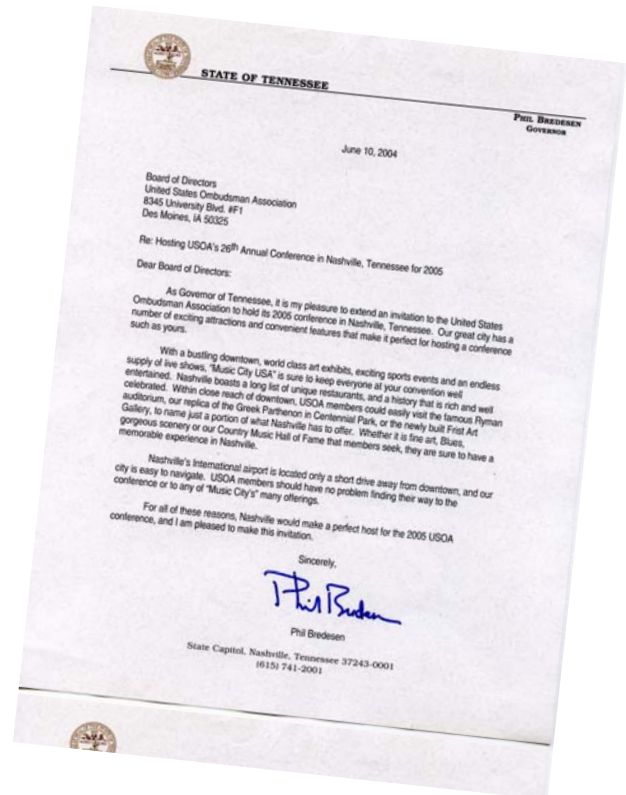
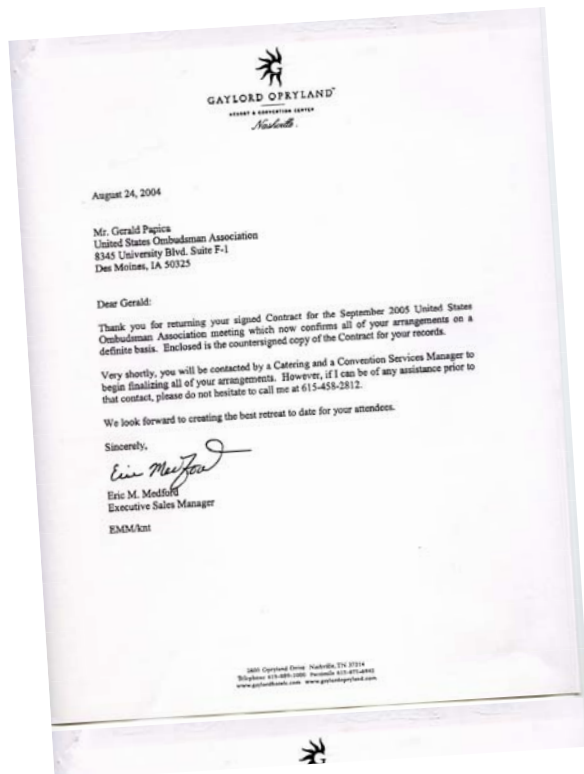
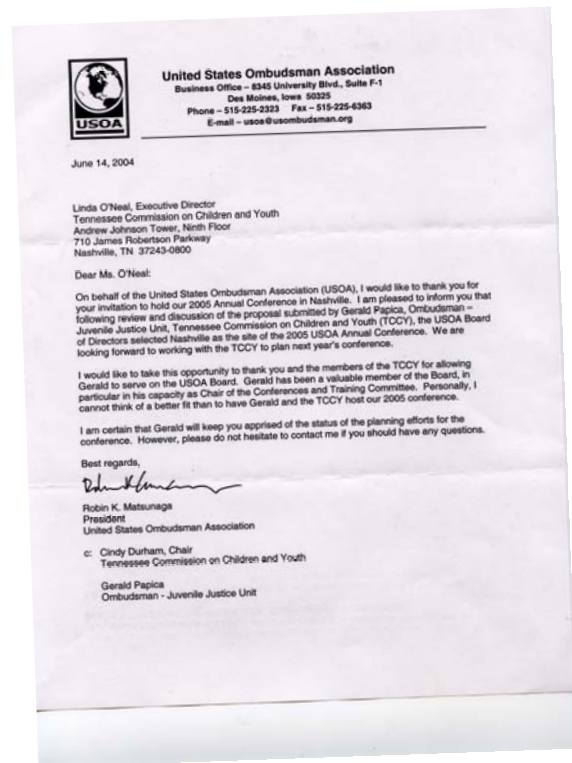


## TCCY Ombudsman Program & DCS Office of the Ombudsman

The TCCY Ombudsman Program is an external problem resolution mechanism for children in the custody of the DCS or placed in the department's kinship care/relative caregiver program. TCCY has statutory authority to review children in the foster care system and make recommendations for improvement. The DCS Office of the Ombudsman is an internal "voice for citizens who believe they have been treated wrongly or unfairly by a government agency" (DCS website). TCCY's ombudsman program works closely with DCS, but is not a part of DCS.

The Ombudsman Program takes referrals from families, youths, non-profits, service providers, stakeholders, etc. that involve a concern about permanency, services, placements, safety, and well-being of a child or minor. The TCCY ombudsman can access records and interview children, families and state and private agency staff, in order to help resolve problems. Established in 1996, the TCCY ombudsman program adheres to the United States Ombudsman Association standards, including a credible review process, confidentiality, impartiality, and independence.

# USOA 2005 Annual Conference @ Gaylord Opryland Hotel





# USOA 2005 Annual Conference @ Gaylord Opryland Hotel

As the new year brings renewed hope and aspirations, the United States Ombudsman Association (USOA) is gearing up for its 26<sup>th</sup> annual conference. Contract negotiations were finalized with Gaylord Opryland Resort and Convention Center in Nashville, the site of this year's North American gathering. A presentation was made about this world class hotel last October in Portland, OR. Based on the initial reactions, it will be a treat and a rare opportunity to go down to "Music City, USA" and enjoy Tennessee's Southern hospitality at its best. According to *Travel + Leisure*, Nashville has earned the title "friendliest city in America" (2003 Survey by AOL Travel/ *Travel + Leisure*).

The annual gathering will commence on September 19<sup>th</sup> (Monday). Two pre-conference workshops will be offered to benefit new and experienced ombudsmen. The conference will formally begin on September 20<sup>th</sup> (Tuesday) and will end on September 22<sup>nd</sup> (Thursday). An added bonus of the event includes a very low room rate of \$87 (includes \$5 resort fee) per night plus tax. The negotiated rate is available three days before and three days after the conference. An upgrade to an Atrium View room can be made for an additional \$30 (50% less than the usual fee). To make your room reservation, call 1-615-883-2211. Iden-

tify yourself as part of the United States Ombudsman Association or provide the group code "X-USBA."

You can visit the Gaylord Opryland Resort and Convention Center's website at:

<http://www.gaylordhotels.com/gaylordopryland/>



According to the Area Chamber of Commerce (1997), "over 50% of the nation's population" lives within 650 miles of Nashville. Three major interstate highways (I-40, I-24, and I-65) intersect in the city providing easy access for travel-

ers and business establishments. The newly renovated international airport also offers several flights to virtually any part of the country. Apart from taking a 15-20 minute taxi ride, the hotel also offers a shuttle from and to the airport at a very reasonable fare.

A registration packet along with the latest information will be posted in the USOA's website sometime in June. The conference planning committee will start discussions about the conference in February.

For more details about the 2005 national event or to join the committee, contact Gerald R. Papica, Conferences and Training Committee chair at 615-532-1572 or Michael D. Cash at 615-532-1688. The toll free number of the conference host, the Tennessee Commission on Children and Youth, is 1-800-264-0904.



## Tennessee Commission on Children and Youth

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[www.state.tn.us/tccy/ombuds.html](http://www.state.tn.us/tccy/ombuds.html)

Ombudsmen: Gerald R. Papica  
Michael D. Cash

**TCCY Ombudsmen are  
Rule 31 Listed Mediators**



Ombudsman  
for TN's Children  
in State Custody

*An ombudsman is an individual or entity who "acts on behalf of another person" relating to action, inaction, or decisions of government officials, public organizations, and service providers that adversely affect the health, safety, welfare, or rights of a child in the foster care system.*

TCCY's Ombudsman Program cannot and will not...

- ♦ Participate in a referral or open a case that is imminently bound for court and/or petitions are filed regarding child custody, termination of parental rights, abuse, neglect, and dependent issues.
- ♦ Act as an attorney, provide legal advice, or offer counsel.
- ♦ Serve as an agent of law enforcement.
- ♦ Find individual fault or resort to name blaming.



Letters &



Comments

"(The ombudsman) did not delay in contacting the right individuals to help provide the 'extra push' for placement and much needed treatment...stayed on top of this case and continuously kept me informed of any progress made...due in part to his dedication and assistance, this child is now placed in a level III treatment facility."

TennCare Child Advocate  
Nashville, TN

"I want to thank you so much for the work you have done on (child's) behalf...the Judge was going to change the release date on the release papers to tomorrow and it will then be faxed to the Interim Commissioner and as soon as it is faxed back to the group home (child) will be released to come home...thank you again for all the work you did on our behalf."

Mother  
Bristol, TN

"We appreciate your loyalty & professionalism for the children of the state of Tennessee."

TN Correction Academy Program Manager  
Tullahoma, TN